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Committee on Governmental Oversight and Productivity

Senator Rudy Garcia, Chairman

CHAPTER 287: COMPETITIVE PROCUREMENT PROCESS FOR THE ACQUISITION OF PROPERTY AND SERVICES

SUMMARY

Part I of ch. 287, F.S., provides competitive procurement requirements for the approximately \$6 billion spent each year by state agencies for commodities and services. During the 2001 Legislative Session, SB 1738 was passed, which in relevant part amended ch. 287, F.S., by codifying two alternative procurement methods: invitations to negotiate and requests for quotes. This report reviews these alternative methods, and recommends clarifying changes for the statutory sections governing these methods. Additionally, this report provides an overview of recommendations received from interested parties for ch. 287, F.S., improvements in topic areas that included: (a) purchasing category amounts; (b) lobbying during the contract award process; (c) protest bond amounts; (d) public meeting exception for bid evaluation meetings; (e) oversight of sole source and emergency procurements; and (f) competitive bidding exemptions.

BACKGROUND

Overview of Florida's Competitive Procurement Legislation—Since the 1950's, Florida has statutorily required competitive bidding in state procurement. Through the years, the requirements have been amended numerous times with control over the procurement process passing from the State Purchasing Commission to the Department of General Services, now known as the Department of Management Services (DMS).¹

Currently, part I of ch. 287, F.S., sets forth the competitive bidding requirements for the procurement of goods and services by state agencies. The stated

legislative intent for the chapter is to create a system of uniform competitive bidding procedures so that fair and open competition is encouraged, and opportunities for favoritism and impropriety are reduced.²

The DMS is the centralized authority tasked with overseeing the implementation of competitive bidding requirements and with creating uniform rules for procurement.³ Additionally, the DMS is authorized to establish state term contracts for commodities and contractual services.⁴ These contracts establish prices for items and designate the vendors with whom orders must be placed. State agencies are required to use state term contracts, except where the DMS exempts the contract from required usage or the contract contains a user surcharge.^{5 6}

The state purchasing process is also partly decentralized. Except in the case of state term contracts, agencies may buy commodities and services themselves, rather than placing orders through the DMS. The applicable statutory competitive bidding requirements for both agency and DMS procurements depend upon which of the following categories of property or services are sought:

- Commodities⁷ and contractual services⁸

² Section 287.001, F.S.

³ Sections 287.032 and 287.042, F.S.

⁴ Sections 287.042(2) and 287.057(19), F.S.

⁵ Section 287.056, F.S.

⁶ The DMS may impose a surcharge on state term contracts to fund the costs of its procurement function. The charge may be collected from the vendor or agency. Section 287.1345, F.S.

⁷ Commodities are supplies, materials, goods, merchandise, food, equipment, certain printing, and other personal property, including portable structures less than 3,000 square feet. Excluded are commodities purchased for resale, and prescriptions and medical devices required by health care providers. Sections 287.012(4), and 287.057(4)(e), F.S.

¹ Ch. 69-106, L.O.F.

- Insurance
- Architectural, engineering, and registered surveying professional services
- Information technology⁹
- Private attorney services¹⁰

Procurement of commodities and contractual services: When a state executive agency¹¹ wishes to award a contract for commodities or contractual services that costs in excess of \$25,000, the agency must use one of the following procurement methods:

- Invitation to bid (ITB): The agency may issue an ITB that details the property or service sought, the bid submittal date, all contractual terms, and the criteria to be used for bid review. The ITB is used when the agency is capable of specifically defining the scope of work for which a contractual service is required or capable of establishing the precise specifications defining the commodities sought.¹² A copy of the ITB must be forwarded to the DMS. The contract must be awarded to the lowest, qualified, responsive bidder.^{13 14}
- Request for proposals (RFP): If the agency determines in writing that the use of an ITB is not practicable, it may issue a RFP that identifies the property and/or service sought, all contractual terms, and bid review criteria. The RFP is used when the agency is incapable of specifically defining the scope of work for which the commodities or contractual service is required or

when the agency is requesting that a qualified offeror propose commodities or contractual services to meet the specifications of the solicitation.¹⁵ The agency is permitted to conduct discussions with qualified bidders for purposes of assuring full understanding of the solicitation. Unlike the ITB process, however, the agency need not award the contract to the lowest bidder; rather, the award may be given to the responsible offeror whose proposal is determined in writing to be the most advantageous to the state, considering the price and other criteria set forth in the RFP.¹⁶

- Invitation to negotiate (ITN): If the agency determines that use of an ITB or RFP will not result in the best value to the state, based on factors including price, quality, design, and workmanship, the agency may use an ITN.¹⁷ An ITN is a written solicitation that calls for responses to select one or more persons or entities with which to commence negotiations.¹⁸

Additionally, in the event an agency wishes to procure commodities or contractual services from vendors currently under contract with the DMS, the agency may use a request for quote (RFQ), which is defined as a solicitation that requests pricing information from qualified or registered state contract vendors.¹⁹

To allow for circumstances wherein procurement of goods or services with an ITB, RFP, ITN, or RFQ is not possible, ch. 287, F.S., provides two other procurement options:

- Emergency purchases: If the agency determines in writing that emergency action is required due to an immediate danger to the public health, safety or welfare, or other substantial loss to the state, the agency may procure goods or services without competition and without approval from the DMS. A copy of the written statement of emergency need must be filed with the Comptroller and the DMS. The subsection does require, however, that the procurement be made with such competition as is practicable under the circumstances.²⁰

⁸ Contractual service is an independent contractor's rendering of its time and effort, rather than the furnishing of specific commodities. Excluded are construction contracts entered pursuant to ch. 255, F.S. Section 287.012(7), F.S.

⁹ Information technology includes equipment, hardware, software, firmware, programs, systems, networks, infrastructure, and media used to automatically, electronically, or wirelessly collect, receive, store, disseminate or otherwise manipulate information of any kind.

¹⁰ Section 287.059, F.S.

¹¹ Agency is defined as any state officer, department, board, commission, division, bureau, and council, and any other division of the executive branch, except the Board of Regents and the State University System.

¹² Section 287.012(11), F.S.

¹³ Section 287.057(1), F.S.

¹⁴ "Responsive bidder" or "responsive offeror" are defined as a person who has submitted a bid or proposal which conforms in all material respects to the ITB or RFP. Section 287.012(16), F.S.

¹⁵ Section 287.012(15), F.S.

¹⁶ Section 287.057(2), F.S.

¹⁷ Section 287.057(3), F.S.

¹⁸ Section 287.012(20), F.S.

¹⁹ Section 287.012(21) and 287.057(3), F.S.

²⁰ Section 287.057(4)(a), F.S.

- Single source purchases: Goods or services may be exempted from the competitive bid requirements if the purchase is for \$150,000 or less and it is documented that the good or service is only available from a single source. A single source procurement in excess of \$150,000 may not be made until approval is received from the DMS.²¹

Commodities and contractual services that are specifically exempted from the competitive procurement requirements include: prescriptive assistive devices for medical, developmental, or vocational clients; artistic services; academic program reviews; lectures by individuals; auditing services; legal services; health services; services for the mentally or physically handicapped provided by certain not-for-profit corporations; specified Medicaid services; family placement services; prevention services; certain training and education services for injured employees; Department of Transportation contracts for construction and maintenance of state roads;²² services or commodities provided by governmental agencies; certain continuing education events; and contracts where state or federal law prescribes with whom the agency must contract or the rate of payment.²³

E-procurement program for commodities and contractual services: During the 2000 Session, legislation was enacted that directed the State Technology Office, administratively housed within the DMS,²⁴ to develop a program for online procurement of commodities and contractual services.²⁵ On March 1, 2001, an ITN was issued by the DMS for the on-line procurement system. Seventeen responses were received and scored. On October 16, 2001, the DMS issued its Intent to Award to KPMG Consulting.²⁶

State executive agencies are statutorily required to participate in the online procurement program, while other agencies are permitted to participate. Only bidders who have prequalified may participate in the program. The STO is required to promulgate rules for the program that include establishing bidder qualification criteria, criteria for eligible commodities and contractual services, procedures for access to

on-line procurement, and any criteria warranting an exception to participation in on-line procurement.²⁷

The DMS and the STO may collect fees for using on line procurement, which may be imposed on an individual transaction basis or as a fixed percentage of the cost savings generated. At a minimum, the fees must cover the cost of the online program.²⁸

Procurement of insurance: The DMS is responsible for purchasing insurance for state agencies, except that agencies may purchase title insurance or may make emergency purchases for periods no greater than 30 days. The purchase of insurance, whether made by the DMS or an agency, must comply with the competitive bid requirements for commodities, except that the DMS may authorize the purchase of insurance by negotiation when this is in the best interest of the state.²⁹

Procurement of architectural, engineering, and registered surveying services: The “Consultants’ Competitive Negotiation Act”³⁰ governs the acquisition of architectural, engineering, and registered surveying professional services by Florida agencies. The term “agency” is broadly defined and applies to many public entities not otherwise subject to the chapter’s competitive bidding requirements. “Agency” means the state, a state agency, a municipality, a political subdivision, a school district, or school board.³¹

When an agency wishes to procure construction services that cost in excess of \$250,000 or planning and study services that cost in excess of \$25,000, it must publicly notice the procurement. The notice must include a description of the project and how interested consultants may apply for consideration. Any firm responding to the notice must first be certified by the agency pursuant to the agency’s regulations.³²

When evaluating responses, the agency must consider statements of qualifications and performance data, and must conduct discussions with at least three firms. The agency must select at least three firms in order of preference that are deemed to be the most qualified to perform the services.³³

²¹ Section 287.057(4)(c), F.S.

²² Chapter 337, F.S., provides the competitive bid requirements for road contracts.

²³ Section 287.057(4)(e)-(g) and (10), F.S.

²⁴ Section 282.102, F.S.

²⁵ Ch. 2000-164, L.O.F., now s. 287.057(23), F.S.

²⁶ <http://www.myflorida.com/myflorida/business/search/responses/index.html>

²⁷ Section 287.057(23)(a)-(b), F.S.

²⁸ Section 287.057(23)(c), F.S.

²⁹ Sections 287.02, and 287.057(4)(a) and (d), F.S.

³⁰ Section 287.055, F.S.

³¹ Section 287.055(2)(b), F.S.

³² Section 287.055(2), F.S.

³³ Section 287.055(4), F.S.

The agency is directed to negotiate a contract with the most qualified firm at a compensation determined to be fair, competitive, and reasonable. Only during this negotiation phase may fees be requested and considered. If the agency is unable to negotiate a satisfactory contract with the firm considered to be the most qualified, it must undertake negotiations with the second most qualified firm. In the event the agency is unable to negotiate a satisfactory contract with either of the top two firms, other firms are to be selected in order of competency and negotiations continued until an agreement is reached.³⁴

Procurement of information technology resources: An agency may procure information technology with an ITB when it is able to precisely define the resource required, and only the price is at issue. If the agency, however, determines that alternative means will meet its information technology needs and that other criteria, in addition to price, should be considered, the agency may utilize a RFP. Additionally, as with the procurement of commodities and services, the agency may be exempted from the competitive bid requirements if the resource is available only from a single source and the agency files a single source certification request with the DMS.³⁵

Procurement of Private Attorney Services: Agencies³⁶ are required to offer to contract with the Attorney General (AG) before procuring for private attorney services, except where the services are: (a) procured by the Executive Office of the Governor, a department headed by a cabinet officer, a community college, the State University System, the Florida School for the Deaf and Blind, or a multicounty special district; (b) provided by a legal services entity for indigent clients; or (c) necessary for litigation involving the State Risk Management Trust Fund. The AG must decide on a case-by-case basis whether to accept or decline the case based on staffing, expertise, or other legal or economic considerations. If the AG declines the case, the AG's written authorization for private attorney services must state that the office cannot provide the services or that private attorney services are more cost-effective.³⁷

Ch. 287, F.S. preferences in state contracting: Chapter 287, F.S. creates the following preferences in state contracting:

- Certified Minority Business Enterprises (MBEs): State agencies are encouraged to spend the following percentage of contract monies with MBEs: 21% of construction moneys, 25% of architecture and engineering moneys, 24% of commodities moneys; and 50.5% of contractual service moneys.³⁸ To achieve these goals, agencies may: (1) set-aside state contracts for bidding only among MBEs or only among bidders who agree to use MBEs as subcontractors³⁹; and (2) grant price preferences up to 10% to MBE bidders on commodity and service contracts.⁴⁰ Agencies are required to award commodity and service contracts to a MBE if two or more equal bids are received and one of the bids is from a MBE.⁴¹
- Florida Businesses: If an out-of-state business is the lowest bidder for a competitively bid state contract and if the state the business is domiciled in grants preferences to in-state bidders, the Florida agency may award a preference to an in-state bidder that is equal to the preference granted by the state of the lowest responsible bidder.⁴²
- In-state Commodities: Whenever two or more competitive sealed bids are received, which relate to commodities grown, or produced within Florida, and whenever the bids are equal with respect to price, quality, and service, the state commodity bid must be given preference.⁴³
- Businesses with drug-free workplace programs: Whenever two or more bids are received by the state or any political subdivision that are equal with respect to price, quality, and service, the bid from a business that has certified it has implemented a drug-free workplace program must be given preference.⁴⁴
- Certain foreign manufacturers: Whenever price, quality, and service are the same, a foreign

³⁴ Section 287.055(4) and (5), F.S.

³⁵ Section 287.073, F.S.

³⁶ "Agency" is defined to include state officers, departments, boards, commissions, divisions, bureaus, councils, and other executive branch units, community colleges, and certain multicounty special districts.

³⁷ Section 287.059, F.S.

³⁸ Section 287.09451(4)(n), F.S.

³⁹ Sections 255.102, 287.057, and 287.093, F.S.

⁴⁰ Section 287.057(7)(c), F.S.

⁴¹ Section 287.057(11), F.S.

⁴² Section 287.084, F.S.

⁴³ Section 287.082, F.S.

⁴⁴ Section 287.087, F.S.

manufacturing company with a factory in Florida that employs more than 200 employees shall have preference over any other foreign company.⁴⁵

- Products with recycled content: State agencies may allow up to a 10% price preference for responsive bidders certifying that the products contain at least the minimum percentage of recycled content set forth in the ITB. An additional 5% price preference may be allowed for bidders certifying the products are made of materials recovered in Florida.⁴⁶

Bid Protests: Bidders wishing to challenge the procurement process must file their notice of protest within 72 hours after: (a) publication of the ITB or RFP when challenging the ITB or RFP terms; or (b) posting the bid tabulation or after receipt of the notice of the agency decision or intended decision when challenging an award or other agency decision or intended decision. The formal written protest must be filed within 10 days after a notice of protest is filed.⁴⁷ Upon receipt of a timely filed formal written protest, the agency must stop the procurement or contract award process until the protest is resolved by final agency action, unless the agency determines in writing that the continuance of the procurement or contract award process is necessary to avoid an immediate and serious danger to the public health, safety, or welfare.⁴⁸

Protestors must file a bond payable to the DMS, the water management district, or agency in an amount equal to 1 percent of the estimated total volume of the contract or \$5,000, whichever is less. The losing party in a bid protest is responsible for paying the prevailing parties' costs and charges, excluding attorney's fees. The bond must be returned to the protesting party after the payment of any costs and charges due.⁴⁹

For bid protests to agency action other than a rejection of all bids, the administrative law judge is required to conduct a de novo proceeding to determine whether the agency's proposed action is contrary to statute, the agency's rules or policies, or the bid or proposal specifications. The standard of proof in these proceedings is whether the proposed agency action was clearly erroneous, contrary to competition, arbitrary, or capricious. The standard of review for bid protests to

the rejection of all bids is lower because such action treats all bidders equally and is thus subject to less scrutiny than when an agency treats bidders differently. An agency's decision to reject all bids will only be overturned if the agency's action is illegal, arbitrary, dishonest, or fraudulent.

METHODOLOGY

The methodology for this report included reviewing Florida Statutes, case law, and law review articles, and discussing the subject matter with legislative staff, private attorneys, and representatives from the Auditor General's Office, the Department of Management Services, and the State Technology Office.

FINDINGS

This project reviewed the addition of the ITN and RFQ methods of procurement to ch. 287, F.S., by SB 1738, enacted during the 2001 Legislative Session. Discussions conducted with interested public and private sector parties for this review also yielded numerous other suggestions for ch. 287, F.S., improvements. Consequently, the following discusses not only those findings relevant to the scope of this project, but also those additional recommendations that were offered.

Invitations to Negotiate: An ITN is currently defined in statute as a written solicitation that calls for responses to select one or more persons or entities with which to commence negotiations.⁵⁰ Statute further provides that an ITN may be used when the agency determines that use of an ITB or RFP will not result in the best value to the state, based on factors including price, quality, design, and workmanship.⁵¹

The ITN method of procurement was not specifically provided for in statute until the passage of SB 1738; however, this method has been utilized for several years by state agencies pursuant to DMS rules. Prior to the year 2000, former Rule 60A-1.018,⁵² provided that commodity and services contracts in excess of \$25,000 could be negotiated without using an ITB or RFP by either the DMS or an agency when the DMS determined this method was in the best interest of the state.⁵³ This rule was repealed on January 2, 2000,

⁴⁵ Section 287.092, F.S.

⁴⁶ Section 287.045(5), F.S.

⁴⁷ Section 120.57(3)(b), F.S.

⁴⁸ Section 120.57(3)(c), F.S.

⁴⁹ Section 287.042(2)(c), F.S.

⁵⁰ Section 287.012(20), F.S.

⁵¹ Section 287.057(3), F.S.

⁵² Rule 60A-1.018, F.A.C., repealed January 2, 2000.

⁵³ The statutory authority for the DMS's ITN rule

when Rule 60A-1.001, F.A.C., took effect. The new rule now defines the ITN method of procurement as a competitive solicitation used when an ITB or RFP is not practicable, and requires an agency to document the conditions and circumstances resulting in its decision to use the ITN method.⁵⁴

Department of Management Services representatives have explained that the need for the ITN method stems from inflexibility in the ITB and RFP procurement processes. Until the creation of the ITN method, only the ITB and RFP methods were available. An ITB is utilized when the agency is able to specifically identify the specifications for a commodity or the scope of work required. Essentially, the only issue with an ITB is price, and accordingly, an ITB procurement is statutorily required to be awarded to the lowest, responsive bidder.

On the other hand, a RFP is utilized when the agency only can generally identify the commodity or scope of work sought. With a RFP, not only is price at issue, but so too is determining, based on non-price criteria, the vendor with the proposal most advantageous to the state. Although consideration of criteria other than price affords flexibility in selecting the contract recipient that flexibility is restricted in that, pursuant to case law, the contract that results from a RFP procurement cannot deviate in any material respect from the provisions of the RFP.

In *State Department of Lottery v. Gtech, Corp.*, 26 Fla. L. Weekly D621 (Fla. 1st DCA Feb 28, 2001), Gtech and Automated Wagering International, Inc. (AWI) filed proposals in response to a RFP issued by the Department of Lottery (DOL) for an on-line lottery system. The DOL ultimately negotiated a contract with AWI. Gtech challenged the contract arguing that it was void because it altered certain material provisions required by the RFP and added other provisions never contemplated by the RFP.

On appeal, the court reviewed RFP Provision 8.7.2., which provided that the DOL Secretary was to negotiate a contract with the most highly qualified respondent if he/she determined that the proposal was the best method of obtaining the on-line system. The

court found that the contract entered into between the DOL and AWI contravened this requirement. According to the court, the fact that the contract contained several material changes to the proposal evidenced an implicit determination by the DOL that the proposal was not the “best method.” The court stated that when the DOL decided to negotiate a contract that was materially different than the AWI proposal it should have rejected both responses to the RFP and started anew.⁵⁵

The effect of the court’s holding is that the selected proposal in a RFP procurement should be reduced to a contract. In other words, there can be no negotiations after the receipt of proposals that result in any material changes to the proposal. In some cases, such restrictiveness is harmless; however, in others, this restrictiveness may preclude the state from contracting for the most advantageous commodity or service.

For example, changes in information technology occur daily. Thus, when an agency issues a RFP for information technology, it is expected that advancements will have occurred by the time a vendor submits its proposal or by the time a vendor is selected and a contract is entered. Such advancements may warrant deviating from the general description of the commodity or service statutorily required to be included in a RFP. Consequently, in order for the state to have the ability to consider timely, innovative solutions, it appears necessary to have the ITN method of procurement. This method allows the agency to focus more on describing the problem, rather than attempting to describe the solution, and does not require that the ultimate contract mirror the response to the ITN.

Currently, the statute authorizing the ITN method states generally that an ITN is a written document calling for responses to select one or more persons or entities with which to commence negotiations. Unlike the statutory requirements for ITBs and RFPs, it does not specify what information should be contained in the ITN or any guidelines for who should receive the contract award. Also, it is difficult when reading the statutory RFP and ITN definitions to determine precisely what circumstances warrant using which method. Clarification of both the RFP and ITN definitions may

appeared to be derived from s. 287.042(5)(a), F.S. (2000), which requires the DMS to prescribe methods of negotiating and awarding contracts, and s. 287.057(3)(b), F.S. (2000), that permitted the DMS to except contracts from the competitive bid process.

⁵⁴ Rule 60A-1.001, F.A.C.

⁵⁵ The *Gtech* court certified two questions to the Florida Supreme Court as being matters of great public importance. As of the date of this report, the *Gtech* case remains pending before the Supreme Court.

improve the act.

Request for quote: A RFQ is statutorily defined as a solicitation that requests pricing information from qualified or registered state contract vendors.⁵⁶ DMS and STO representatives have indicated that this process is necessary to insure that agencies obtain the lowest price possible for commodities or services available on state term contract. Often times the price of a commodity or service, for example information technology, will drop at some point after the state term contract is entered. The RFQ allows the agency to request price quotes from the state term contract vendors, rather than simply paying the state term contract price, which may be higher than the current market price. It also encourages state term contract vendors to competitively price commodities and services in that the agency is permitted to negotiate with vendors by stating that a lower price was received via a RFQ from another vendor.

The current statutory definition of RFQ should be clarified. As presently defined, the RFQ not only can be used as described above, but also could be used as a tool to purchase goods and services not available on state term contract. The only statutory requirement for a RFQ is that it be made to a state term contract vendor. Thus, an agency could arguably obviate the competitive bid process by purchasing goods or services not included within the scope of a vendor's state term contract. Language limiting RFQs to only those good and services available on state term contract would eliminate this possibility.

Additional ch. 287, F.S. issues: It appears that ch. 287, F.S. may benefit from organizational changes that include: (a) alphabetizing the definitions contained in s. 287.012, F.S.; (b) ensuring that the sections within ch. 287, F.S., properly cross-reference the ITN method of procurement; and (c) relocating the statutory definition of a RFQ from the competitive bid section to the state term contracts section.

Further, numerous recommendations were offered for improving ch. 287, F.S., during discussions conducted with public and private sector representatives in preparation for this report. The following provides an overview of some of the more significant agency suggestions.

Recommendations from the DMS included:

- Inclusion of the State University System in the ch. 287, F.S., definition of agency. Greater economies of scale can be achieved by adding the universities' nearly \$1.2 billion in annual purchases.
- Increasing the purchasing category amounts contained in s. 287.017, F.S. DMS representatives have indicated that the current amounts, which have not been increased since 1999, do not reflect today's commodity and contractual service prices.
- Providing the DMS with the discretion to authorize quasi-governmental entities to purchase off of state term contracts for the purpose of creating greater volume discounts.
- Repealing s. 287.042(3), F.S., which requires the DMS to have general supervision over all agency storerooms, stores, and commodity inventories.
- Prohibiting vendors from lobbying the executive and legislative branches during the solicitation and award process.
- Creation of a public meetings exemption for meetings conducted by evaluation teams for ch. 287, F.S., procurement solicitations to protect trade secrets that may be revealed during discussions. The meetings would be taped and the tapes made available after the contract is awarded.
- Modifying the amount of the bond that must be filed when filing a bid protest to 1% of the estimated contract amount or \$5000, whichever is greater, rather than whichever is lesser as in current statute.

Recommendations from the Auditor General included:

- Requiring agencies to maintain greater documentation of the steps it took in determining that a single source procurement was only available from one vendor.⁵⁷
- Requiring agencies to solicit and obtain competitive quotes from two or more prospective

⁵⁷ *Single Source and Emergency Procurement Selected State Agencies and the Department of Management Services Operational Audit*, Auditor General, September 2001.

⁵⁶ Sections 287.012(21) and 287.057(3), F.S.

vendors for emergency procurements, unless the agency can demonstrate in writing that the time required for solicitation would increase the immediate danger of the public health, safety, or welfare, or other substantial loss to the state.⁵⁸

- Deleting s. 287.057(4)(b), F.S., which grants the DMS the discretion to except contracts from the competitive bid process.
- Requiring that purchases of the commodities and services listed in s. 287.057(4)(e)-(f), F.S., which are exempted from competitive bidding, be made by written solicitation for competitive quotes.
- Establishing expectations for methods of negotiation.
- Centrally locating competitive bid exemptions and purchasing preferences within ch. 287, F.S.
- Reviewing the continued public purpose for competitive bid exemptions and purchasing preferences contained in ch. 287, F.S.

Staff is currently reviewing these recommendations and soliciting feedback from interested parties. The Legislature may wish to consider these suggestions in upcoming sessions.

RECOMMENDATIONS

Staff recommends that ch. 287, F.S., be modified as follows:

- Clarify the statute authorizing the ITN method of procurement to specify the type of information an ITN should contain, who should receive the contract award, and the circumstances under which an ITN may be used.
- Clarify the circumstances under which a RFP should be utilized.
- Limit the usage of RFQs to commodities and services available on state term contract.
- Reorganize the definition section in s. 287.012, F.S. to ease access.
- Ensure that the ITN method of procurement is properly cross-referenced throughout ch. 287, F.S.
- Relocate the RFQ tool from the competitive bid section to the state term contract section in ch. 287, F.S.

⁵⁸ *Id.*